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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,230	10/12/2005	Oliver Feilen	8369.005.US0100	7194
77176	7590	04/08/2010	EXAMINER	
Novak, Druce & Quigg LLP 1300 I Street, N.W. Suite 1000, West Tower WASHINGTON, DC 20005			LOUIE, OSCAR A	
			ART UNIT	PAPER NUMBER
			2436	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,230	<b>Applicant(s)</b> FEILEN ET AL.	
	<b>Examiner</b> OSCAR A. LOUIE	<b>Art Unit</b> 2436	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This final action is in response to the amendment filed on 12/29/2009. Claims 1-14 are pending and have been considered as follows.

### ***Examiner Note***

In light of the applicants' amendments and remarks the examiner hereby withdraws his previous Claim Objections.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 5, 7, 10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Beuten et al herein after Beuten (US 7,313,703).

***Claims 1 and 10:*** Beuten discloses a process and a device for protecting at least one motor vehicle component against manipulation in a control device, which comprises at least one microcomputer and at least one memory module (*column 4, lines 24-30*), said method comprising:

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dividing a code necessary for operation of the control device into at least one master code, said master(*checksum*), code comprises information essential for operation of the control device(*column 5, lines 17-24*), and at least one sub-code(*control program*), said sub-code which comprises additional information for operation of the control device(*column 5, lines 9-17*),

Storing at least the master code in the microcomputer (*column 4, lines 3-20*); and

Causing the master code to monitor manipulation of the sub-code (*to check for control program manipulation a checksum is calculate*) (*column 5, lines 33-55*).

**Claim 5:** Beuten discloses a control device for a motor vehicle comprising:

at least one microcomputer (*column 4, lines 950-60*);

at least one memory module (*column 4, lines 50-60*);

a code which is necessary for operation of the control device, being divided into at least one master code which comprises information which is essential for operation of the control device (*column 5, lines 17-24*), and at least one sub-code which comprises additional information for operation of the control device (*column 5, lines 9-17*);

Wherein at least the master code is stored in the microcomputer and contains a software function module for detection of manipulation within the sub-code (*to check for control program manipulation a checksum is calculate*) (*column 5, lines 33-55*).

**Claims 3, 7 and 12:** Beuten discloses a process, a control device and a device as in claims 1, 5 and 10 above, and Beuten further discloses wherein said storing step comprises storing the sub-code in a rewritable area of the microcomputer(*column 4, lines 50-67*).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beuten et al (US 7,313,703) in view of Krauter et al herein after Krauter (US 2001/0027524).

***Claims 2, 6 and 11:*** Beuten discloses a process, a control device and a device as in claims 1, 5 and 10 above, but does not explicitly disclose wherein said storing step comprises storing the master code in a read-protected area of the microcomputer which is writable only once. However, Krauter disclose a process and device for protecting a digital controller against manipulation of its program, which further discloses wherein said storing step comprises storing the master code in a read-protected area of the microcomputer which is writable only once (*paragraph [0016]*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Beuten such that it stores the master code in a read-protected area. One would have been motivated to do so in order to reliably and easily detect manipulation of control program the content of a microcomputer as taught by Krauter (*paragraph [0008]*).

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5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beuten et al (US 7,313,703) in view of Schwartz (US 6,816,953).

**Claims 4, 8 and 13:** Beuten discloses a process, a control device and a device as in claims 1, 5 and 10 above, but does not explicitly disclose wherein said storing step comprises storing the sub-code in a rewritable area of at least one external memory module.

However, Schwartz discloses a process and device for securing a computer, which further discloses wherein said storing step comprises storing the sub-code in a rewritable area of at least one external memory module (Fig. 1, item 15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Beuten such to store the sub-code on external storage. One would have been motivated to do so in order to secure a microcomputer as taught by Schwartz (column 1, lines 50-60).

6. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beuten et al (US 7,313,703) in view of Hurich (US 6,816,953).

**Claims 9 and 14:** Beuten discloses a process, a control device and a device as in claims 1, 5 and 10 above, but does not explicitly disclose wherein at least one part of the sub-code is stored encrypted in a rewritable area and the master code is used to generate a key for decryption. However, Hurich discloses a process and device for protecting a microcomputer system against manipulation of its program, which further discloses wherein at least one part of the sub-code is stored encrypted in a rewritable area and the master code is used to generate a key for decryption (*column 3, lines 15-36*). Therefore, it would have been obvious to one having ordinary skill in

the art at the time the invention was made to modify the teaching of Beuten such to encrypt the sub-code and to use the master to generate a decryption key. One would have been motivated to do so in order to protect the content of a microcomputer as taught by Hurich (column 2, lines 47-55).

### ***Response to Arguments***

7. Applicant's arguments filed 12/29/2009 have been fully considered but they are not persuasive.

- The applicants' remarks with respect to, "...In the Bueten et al. arrangement, the code required for the operation of a controlled device is not divided between codes of different logic blocks with the combined code required to operate the controlled device and with one code monitoring the other but simply a plurality of logic blocks containing code for operating selected ones of a plurality of controlled devices with no monitoring of one code by another code and simply the activation of a "checking mechanism" of the processor "determining whether the operated program of a selected logic blank has been manipulated". The processor functions merely to preclude the current or future execution of a program of the selected logic block, if it is determined that the program of the block has been manipulated..." have been carefully considered but are non-persuasive;
  - o The examiner notes that the current claim language is broad enough to cover the cited prior art; that is, the applicants' claims recite the requirement of two separate codes which the prior art of record discloses "checksum" and "control

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program”; although the applicants may have intended to refer to a different meaning of “a code” (at least different from the interpretation taken by the examiner due to the claim language) and that there is an active division in terms of splitting the code into two separate code portions, these aspects are not readily apparent from the current claim language. The examiner recommends further elaboration on their claim language in order to better encompass their believed invention, particularly their believed novelty in order to further prosecution and to overcome the current cited prior art of record.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Oscar Louie whose telephone number is 571-270-1684. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM. The examiner can also be contacted via E-mail to schedule a telephone discussion at OSCAR.LOUIE@USPTO.GOV.

If attempts to reach the examiner by telephone or E-mail are unsuccessful, the examiner's supervisor, Nasser Moazzami, can be reached at 571-272-4195. The fax phone number for Formal or Official faxes to Technology Center 2400 is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is only available through Private PAIR. If you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 (local). For more information on the PAIR system or the EBC please visit <http://www.uspto.gov/patents/ebc/index.jsp>. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 (local).

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04/06/2010

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